

**REMARKS**

Claims 1-6, 8-30, 52 and 53 were previously pending in this application. Independent claim 1 is currently amended. Support for this amendment can be found in the specification as originally filed (e.g., at paragraph [0074] “. . . data transmission starts at time  $t_0$  when either the battery or the UPS system transitions the current to zero. . .”). No claims are currently added or cancelled. As a result, claims 1-6, 8-30, 52 and 53 are pending for examination with claim 1 being the sole independent claim. No new matter has been added.

**Summary of Telephonic Interview with Examiners Cavallari and Sherry**

Applicant would like to thank Examiners Cavallari and Sherry for the telephonic interview on Wednesday, May 14, 2008. During the interview, Applicant's independent claim 1 was discussed in light of the references cited in the Final Office Action dated 11/05/07 – U.S. Patent App. Pub. No. 2001/0009361 A1 to Downs et al. and U.S. Patent App. Pub. No. 2003/0206021 A1 to Laletin et al. During the interview, it was agreed that neither Downs nor Laletin disclosed a battery monitor that communicated with an external system by stopping or suspending power supplied to the monitor by the external system, but rather communicated by superimposing a signal on the power supplied by the external system. Examiner Cavallari believed that the limitation of “interrupting current of received power” as recited in Applicant's independent claim 1 should be made clearer.

Applicant would also like to thank Examiner Cavallari for the telephonic interview on Monday, May 19th, in which the Examiner provided further suggestions for modifying independent claim 1.

In response, Applicant submits this Amendment and Response accompanied by a Request for Continued Examination with independent claim 1 amended to conform substantially to the Examiner's suggestion.

Rejections Under 35 U.S.C. § 102

The Final Office Action rejected claims 1, 8, 14, 15, 20-23, 26, and 53 under 35 U.S.C. § 102(b) as being anticipated by Downs, et al., U.S. Publication No. 2001/0009361 (hereinafter “Downs”). Applicant respectfully traverses the rejection as outlined below.

The Disclosure of Downs

Downs is directed to a method for monitoring a rechargeable battery (Abstract). Downs discloses a battery pack 100 that monitors a battery using a battery monitoring circuit 102 (Downs at FIG. 1 and Paragraph 0017). The battery monitoring circuit can receive power over a one-wire data bus connected to input pin DQ (Downs at Paragraph 0017). The battery monitoring circuit “steals” power when the signal at the DQ I/O is high (Downs at Paragraph 0017).

Claims 1, 8, 14, 15, 20-23, 26, and 53 patentably distinguish over Downs

Applicant respectfully disagrees that claims 1, 8, 14, 15, 20-23, 26, and 53 are anticipated by Downs.

Independent claim 1 is directed to a battery having an apparatus for monitoring the battery. The battery comprises one or more cells that provide power to at least one output and a monitor that is adapted to monitor and store performance information relating to the operation of the one or more cells. The monitor is adapted to communicate with an external system, and is adapted to receive a monitor signal from the external system. The monitor is coupled to the one or more cells and is adapted to receive power for the monitor from the external system. The monitor communicates with the external system by actively suspending current of the received power provided to the monitor by the external system.

The Final Office Action on page 6, and the Advisory Action on page 2 assert that Downs discloses a monitor adapted to communicate with an external system by interrupting current of received power provided by the external system. However, the portion of Downs which the Examiner seems to rely on for this proposition simply reads “[S]erial numbers stored in memory can be read in the absence of normal power, such as when battery cells 154 are completely discharged.” (Downs at Paragraph 0017). Nowhere does Downs disclose that current may be actively suspended by the monitor. A disclosure of a monitor including a memory that may be

read from in the absence of normal power in no way discloses a monitor that communicates with the external system by actively suspending current of received power provided to the monitor by the external system as recited in independent claim 1. Downs discloses that power may fail due to discharge of battery cells 154, but nowhere discloses that the monitor 102 may initiate a suspension of current of received power provided by the external system. Thus, Downs fails to disclose a monitor which communicates with the external system by actively suspending current of received power provided to the monitor by the external system as recited in independent claim 1.

Accordingly, because Downs does not disclose all of the elements of independent claim 1, withdrawal of the rejection of independent claim 1 under 35 U.S.C. § 102 as anticipated by Downs is respectfully requested.

Dependent claims 8, 14, 15, 20-23, 26, and 53 depend either directly or indirectly from independent claim 1 and are patentable over Downs for at least the same reasons as independent claim 1. Accordingly, withdrawal of the rejection of dependent claims 8, 14, 15, 20-23, 26, and 53 under 35 U.S.C. § 102 as anticipated by Downs respectfully requested.

The Office Action rejected claims 1-4 under 35 U.S.C. § 102(a) as being anticipated by Laletin et al., U.S. Publication No. 2003/0206021, (hereinafter "Laletin"). Applicant respectfully traverses the rejection as outlined below.

#### The Disclosure of Laletin

Laletin is directed to the testing, evaluation and control of systems incorporating electrical and electrochemical elements. A Device Under Test (DUT) comprising at least one electronic or electrochemical element is excited with a time-varying electrical signal, and a sampling means, operative synchronously with an excitation means, is employed to acquire the time-varying response of the DUT. A variety of analyses may be performed on the acquired data to determine characteristics of the DUT. (Laletin Paragraph 0002).

Laletin fails to disclose a monitor which communicates with an external system by actively suspending current of received power provided to the monitor by the external system.

Claims 1-4 patentably distinguish over Laletin

Applicant respectfully disagrees that claims 1-4 are anticipated by Laletin.

On page 9, the Final Office Action asserts that the monitor of Laletin is “adapted to receive power for the monitor from the external system (via the microprocessor 40) . . . which is connected to the waveform generator which produces the current interrupts.” The Advisory Action on page 2 asserts that the square wave pulses of Laletin used to communicate information break the uniformity of power delivery. However, waveform generator 48 of Laletin (which apparently produces the square wave pulses referred to in the Advisory Action and which the Final Office Action refers to as current interrupts) does not actively suspend current of received power provided to the monitor by an external system. Waveform generator 48 is disclosed as providing a signal to DUT 12 (a battery). The state of this signal is not disclosed as having anything to do with any power supplied to tester 10 (the monitor).

On page 9, the Final Office Action further asserts that “the monitor 30 is adapted to communicate with the external system (22, 21, 48) by interrupting current of received power . . . provided by the external system.” However, microprocessor 30, along with elements 22, 21, and 48 are all internal components of tester 10 (the monitor), not part of an external system. Elements 22, 21, and 48 do not function to actively suspend current of received power provided to the monitor by the external system. They simply provide a signal to DUT 12. This signal in no way actively suspends current of received power provided to the monitor by the external system. Indeed, if a signal from any of components 22, 21, and 48 did somehow create a suspension of current of received power provided to the monitor, the monitor would not be able to perform its function of monitoring the response of DUT 12 to this signal as disclosed.

Thus, Laletin cannot anticipate a monitor adapted to receive power for the monitor from an external system and wherein the monitor communicates with the external system by actively suspending current of received power provided to the monitor by the external system as recited in independent claim 1.

Accordingly, withdrawal of the rejection of independent claim 1 under 35 U.S.C. 102 as being anticipated by Laletin is respectfully requested.

Dependent claims 2-4 depend from independent claim 1 and are patentable over Laletin for at least the same reason as independent claim 1.

Accordingly, withdrawal of the rejection of dependent claims 2-4 under 35 U.S.C. 102 as being anticipated by Laletin is respectfully requested.

Rejections Under 35 U.S.C. § 103

The Final Office Action rejected claims 5 and 6 under 35 U.S.C. § 103(a) as being unpatentable over Laletin in view of Blair et al., U.S. Patent No. 6,700,351, (hereinafter “Blair”), claims 9, 10-13, and 52 under 35 U.S.C § 103(a) as being unpatentable over Downs in view of Wendelrup, et al., U.S. Patent No. 6,584,329, (hereinafter “Wendelrup”), claims 16-19 under 35 U.S.C § 103(a) as being unpatentable over Downs in view of Bohne et al., U.S. Publication No. 2004/0160210, (hereinafter “Bohne”), and claims 24, 25, and 27-30 under 35 U.S.C § 103(a) as being unpatentable over Downs in view of Blair.

Applicant respectfully traverses these rejections.

Claims 5, 6, 9-13, 16-19, 24, 25, 27-30, and 52 all depend either directly or indirectly from independent claim 1 and are patentable over Downs and over Laletin for at least the same reasons as independent claim 1. As discussed above, neither Downs nor Laletin disclose, teach, or suggest each and every element of independent claim 1, and nothing in any of Blair, Wendelrup, or Bohne cures this deficiency. Thus, no combination of Downs or Laletin with any of these references could disclose, teach, or suggest each and every element of independent claim 1, or the claims that depend therefrom. Thus, there is no valid *prima facie* case of obviousness of dependent claims 5, 6, 9-13, 16-19, 24, 25, 27-30, and 52. Accordingly, reconsideration and withdrawal of the rejection of dependent claims 5, 6, 9-13, 16-19, 24, 25, 27-30, and 52 under U.S.C. § 103 is respectfully requested.

**CONCLUSION**

In view of the foregoing amendments and remarks, reconsideration is respectfully requested. This application should now be in condition for allowance; a notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicant's attorney at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 50/2762.

Respectfully submitted,  
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Docket No.: A2000-700019

Date: May 23, 2008